

**BISMARCK BOARD OF ADJUSTMENT  
MEETING MINUTES  
June 5, 2014**

The Bismarck Board of Adjustment met on June 5, 2014 at 4:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5<sup>th</sup> Street. Chairman Marback presided.

Members present were Jennifer Clark, Ken Heier, Ken Hoff, Chris Seifert and Michael Marback.

Board member Jeff Ubl was absent.

Staff members present were Jason Hammes – Assistant City Attorney, Jenny Wollmuth – Planner and Hilary Balzum – Community Development Office Assistant.

**MINUTES:**

Chairman Marback asked for consideration of the minutes of the April 3, 2014 and May 1, 2014 meetings of the Board of Adjustment.

**MOTION:** A motion was made by Ms. Clark and seconded by Mr. Seifert to approve the minutes of the April 3, 2014 and May 1, 2014 meetings as distributed. With Board Members Clark, Heier, Hoff, Seifert and Marback voting in favor, the minutes were approved.

**APPOINTMENTS/ELECTION OF OFFICERS**

Chairman Marback said the reappointment of board members Ken Heier and himself has been completed. He then introduced new board member Ken Hoff, who has replaced Blair Ihmels who has moved out of the jurisdiction.

Chairman Marback then suggested Ms. Clark be selected as vice chairman. Upon a general voice consensus Ms. Clark was selected vice chairman of the Board of Adjustment.

**VARIANCE FROM SECTION 14-04-04(1) OF THE CITY CODE OF  
ORDINANCES (RR-RESIDENTIAL)(FRONT YARD) – 5538 FALCONER DRIVE  
(LOT 5, BLOCK 2, FALCONER ESTATES)**

Chairman Marback stated the applicant was requesting a variance to reduce the required front yard setback along the east side of the property from forty (40) feet to ten (10) feet in order to construct an accessory building.

Mr. Hoff asked if a business was being run or is going to be run out of this residence. Mr. Neideffer said he is currently storing landscaping materials in closed trailers on the property but the main purpose for the variance is to have a building where he can store items out of the reach of his children and neighborhood children.

Mr. Hoff asked how the old the house is and if Mr. Neideffer has been the only owner. Mr. Neideffer said they built the house 10 years ago and that it was placed where it is to avoid the drain field at the back of the property.

Mr. Seifert asked if there is a problem or an ordinance relating to running a business at this location. Ms. Wollmuth said allowable uses include education, public recreation, foster care and family child care; business uses are not allowed as it is a residential district.

Ms. Clark said she understands the concept of the request and asked if there are any other options that would bring Mr. Neideffer closer to complying with the ordinance.

Mr. Neideffer said even if he cannot use the shop for business purposes, he would still want it for household. He would also like to build to the maximum square footage allowed and that would require it to be placed as he has proposed.

Ms. Clark said it looks as if this issue is one of the owners making and they limited the use of the building area because of where the house was placed on the property.

Chairman Marback asked what the side yard requirement is on this lot. Ms. Wollmuth said it is 15.

Mr. Hoff asked if the building could be placed in the rear yard on the south side of the house anywhere. Ms. Wollmuth said the topography on that side would require quite a bit more construction preparation needs and extra expense for the owner.

Mr. Hoff then asked if accessory buildings are allowed in the floodplain. Ms. Wollmuth said they are but they have added requirements.

Ms. Clark asked if the covenants for the area have been checked. Mr. Neideffer said it is his understanding that the only restriction is on colors and whatever zoning requirements are in place. Ms. Wollmuth said the area was platted in 1977 but the requirements have never changed.

Mr. Seifert said he feels approving this request would make the property inconsistent with the adjacent lots because the others do not have any accessory buildings that close to their homes, but he also understands the need to avoid the drain field.

**MOTION:** A motion was made by Ms. Clark to table the variance to reduce the required front yard setback along the east side of the property from forty (40) feet to ten (10) feet in order to construct an accessory building, in order to allow the applicant time to propose an alternative plan. The motion was seconded by Mr. Heier and with Board Members Clark, Heier, Hoff, Seifert and Marback voting in favor of the motion, the variance request was tabled.

**VARIANCE FROM SECTION 14-03-05(4)(b) OF THE CITY CODE OF ORDINANCES (SUPPLEMENTARY PROVISIONS) – 1303 NORTH 3<sup>RD</sup> STREET (LOT 14, BLOCK 7, CASEY'S 2<sup>ND</sup> ADDITION)**

Chairman Marback stated the applicant was requesting a variance to reduce the required rear yard setback along the east side of his property from twenty (20) feet to six and-a-half (6 ½) feet in order to construct an accessory building with access perpendicular to the adjacent alley.

Chairman Marback asked the applicant if it would be possible to turn the accessory building to allow better access. Mr. Marquardt said he would then have to tear down an established tree and would also lose landscaping.

Ms. Clark asked if the proposed garage depth of 26 feet is generous. Chairman Marback said it would fit most vehicles.

Mr. Marquardt said it would be hard to put the building anywhere else, and with having a hitch on his pickup, a garage that is only 24 feet deep would not be big enough.

Mr. Heier asked if a normal distance from the alley would be three feet. Ms. Wollmuth said it is three feet as long as the garage doors do not face the alley.

Mr. Hoff asked if the building could be moved closer to the house. Ms. Wollmuth said if it is less than 10 feet from the house it can be as close as three feet from the property line, but the six foot side yard setback requirement would need to be maintained.

**MOTION:** A motion was made by Mr. Heier to approve the variance to reduce the required rear yard setback along the east side of his property from twenty (20) feet to six and-a-half (6 ½) feet in order to construct an accessory building with access perpendicular to the adjacent alley. The motion was seconded by Ms. Clark. With Board Members Clark, Heier, Hoff, Seifert and Marback voting in favor of the motion, the motion was approved and the variance request was approved.

**VARIANCES FROM SECTION 14-04-09(9) OF THE CITY CODE OF ORDINANCES (HM-MEDICAL FACILITY DISTRICT) TO REDUCE THE REQUIRED REAR YARD SETBACK ALONG THE WEST SIDE OF THE PROPERTY FROM TEN (10) FEET TO ONE (1) FOOT AND SECTION 14-03-10(1) OF THE CITY CODE OF ORDINANCES (OFF-STREET PARKING AND LOADING) – 500 NORTH 8<sup>TH</sup> STREET (TRACT 500 BEING A PART OF BLOCKS 27 AND 38, NORTHERN PACIFIC 2<sup>ND</sup> ADDITION)**

Chairman Marback stated that the applicant is requesting variances to reduce the rear yard setback along the west side of the property from ten (10) feet to one (1) foot in order to construct and addition to the Bismarck Cancer Center in line with the existing building and to reduce the number of required off-street parking spaces to thirty-two (32) spaces.

Lon Romsaas, Swenson, Hagen & Co., said the adjacent neighbors of the property have expressed their support for the approval of the requests. The need for expansion at the Bismarck Cancer Center is to better serve patients, but it will eliminate 19 of the employee parking spaces.

Ms. Clark said diligent efforts were made to replace the needed parking, but the request was denied by the Planning and Zoning Commission.

Mr. Hoff asked how many are going to be needed. Mr. Romsaas said the potential addition would require 83 parking spaces.

Ken Dykes, Bismarck Cancer Center, said the expansion is purely to accommodate medical advances, but they do not anticipate more patients and they will not need more employees.

Mr. Hoff asked why this request was tabled from the April 3, 2013 meeting. Ms. Wollmuth explained that the request was to override staff's interpretation that off-site parking lots were not an allowed use in residential zoning district. Since that time staff had drafted an ordinance which was adopted by the City Commission on May 27, 2014 that would allow off-site parking as a special use in the RT-Residential and RM-Residential zoning districts via a special use if certain provisions were met. Unfortunately the special use request for the four off-site parking lots was denied by the Planning and Zoning Commission on May 28, 2014 because none of the parking lots met all of the provisions outlined in the ordinance.

**MOTION:** A motion was made by Mr. Seifert to approve the variances to reduce the rear yard setback along the west side of the property from ten (10) feet to one (1) foot in order to construct and addition to the Bismarck Cancer Center in line with the existing building and to reduce the number of required off-street parking spaces to thirty-two (32) spaces. The motion was seconded by Mr. Hoff. With Board Members Clark, Heier, Hoff, Seifert and Marback voting in favor of the motion, the motion was approved and the variance request was approved.

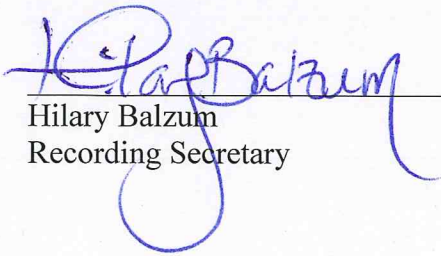
## **OTHER BUSINESS**

Chairman Marback asked if the July meeting of the Board of Adjustment can be pushed back. Ms. Wollmuth said it could potentially be held on July 9<sup>th</sup> and that she would check the availability of the conference rooms and be in touch with everybody. (Secretary's note: The July meeting was rescheduled from July 3<sup>rd</sup> to July 9<sup>th</sup> at 4pm in the first floor conference room in the City-County Building).


## **ADJOURNMENT**

There being no further business, Chairman Marback declared the meeting of the Bismarck Board of Adjustment adjourned at 4:50 p.m. to meet again on a date to be determined.

Respectfully Submitted,

  
Hilary Balzum  
Recording Secretary

APPROVED:

  
Michael Marback, Chairman